

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

STEVIE CROFT,)
)
Plaintiff,)
)
v.)
)
MICHAEL J. ASTRUE, Commissioner)
of Social Security,)
)
Defendant.)

No. 3:07-cv-418
(Phillips/Shirley)

ORDER

On February 26, 2009, the Honorable C. Clifford Shirley, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) [Doc. 25], in which he recommended that the Commissioner’s Motion for Summary Judgment [Doc. 22] be denied; that the Commissioner’s decision be reversed; and that this action be remanded under sentence four of 42 U.S.C. § 405(g). This recommendation was made without a motion from the plaintiff. As directed in a letter from the Clerk of Court dated March 14, 2008 [Doc. 14], plaintiff instead gave notice to the court that he intended to rely solely on the record [Doc. 16]. Plaintiff did, however, submit a two-page brief. [Doc. 18]. Plaintiff also proposed three new exhibits for consideration on appeal, [*see* Doc. 3 at 3]; Judge Shirley, however, found that plaintiff had not demonstrated good cause for failing to present these exhibits below, and accordingly these exhibits were not considered on appeal, [Doc. 25 at 6-7].

The deadline for timely objections has passed with no such objections having been filed. After having carefully reviewed the record, the court is in agreement with Judge Shirley’s thorough analysis. Accordingly, the R&R [Doc. 20] is **ACCEPTED IN WHOLE**, which the court adopts and incorporates herein, whereby the Commissioner’s Motion for Summary Judgment [Doc. 22] is

DENIED. The Commissioner's decision is therefore **REVERSED**, and this matter is **REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this opinion.¹

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge

¹ As detailed in the R&R, plaintiff has not shown good cause for failing to present proposed Exhibits A, B, and C [submitted in plaintiff's complaint, Doc. 3 at 3-4] below. Accordingly remand is solely pursuant to sentence four of 42 U.S.C. § 405(g) for consideration of the record as previously developed.